
POLICY

DHS staff may access the Law Enforcement Information Network (LEIN) only in the performance of official duties after being given access by appropriate authority. Any inappropriate access, use or disclosure of this information may result in disciplinary action and/or criminal prosecution. Staff and their supervisors are responsible for maintaining the security, confidentiality and access to LEIN information. Staff are prohibited from conducting LEIN checks for other government entities or non-profit agencies contracting with DHS; see FOM 722-6A, Criminal Record Check-Law Enforcement Information Network.

PURPOSE

To ensure the caseworker observes proper security controls while conducting LEIN checks on the parents, caretakers or other significant adults or minor household members. This information is used to assist in decision-making regarding the youth's placement and/or treatment, as well as to ensure worker safety.

LEIN CHECKS

LEIN checks must be conducted on all adult household members, including parents and non-parent adults living in the home, for all cases:

- When a child will be having parenting time; see FOM 722-6, Parenting Time.
- When the court orders placement of a child with a relative prior to the completion of a required home study. In this case, a criminal history check must be completed on all household members by the next business day.
- When a return home following an out-of-home placement is being considered.
- When a child is placed at home and new individuals move into the home or there is a new non-parent adult involved with the family.
- When a child is placed with a relative or a home study is being conducted on a relative's home; see FOM 722-3, Placement with Relatives.

- When there is a reason to believe that this information is necessary to make a decision regarding worker safety. In these instances, a LEIN check must be completed prior to contact with the family; see FOM 722-6, Visitations.

LEIN checks must include criminal convictions, arrest/warrants, sex offender registry, and other officer cautions. In addition, if a home is suspected of being a drug house, or domestic violence is suspected, a gun registration/permit check and a Personal Protection Order check must be done.

Verified information from LEIN criminal record checks can be very useful in assessing the potential risk for abuse of a child by his/her parent or by a significant adult such as a non-parent adult living in the parent's home or who may otherwise have access to the child. Criminal record checks must be conducted in those instances in which factors present in the case lead the worker and his/her supervisors to become concerned that information regarding criminal convictions would be helpful in case planning.

REQUESTING LEIN CLEARANCE

Caseworkers must use the DHS-269, Criminal History Information Request, when requesting LEIN clearances. The case number, subject of the LEIN clearance, and reason for requesting the LEIN clearance must be documented on this form. A copy of the form must be filed in the legal section of the juvenile justice case file; see JJ2 255, Case Record Requirements.

LEIN INFORMATION EVALUATION

Caseworkers must evaluate any information received from a parent, relative or others, a LEIN check, Internet Criminal History Access Tool clearance, or other collateral source of information that indicates an adult caretaker has a history of violent behavior or was convicted of a violent crime. Care and discretion must be used in evaluating information received. The existence or nonexistence of an arrest or criminal record is not necessarily an indication of low or no risk.

The existence of an arrest or criminal record must be assessed in light of when (how long ago) the offense occurred and whether any treatment was provided and whether it was effective. The information obtained must be included in assessing risk and making

a decision regarding the safety of the child(ren). Information which indicates the parent or household member was involved in violent behavior, or convicted of crimes against persons or self, including substance abuse, must be given particularly close attention.

Sexual abuse, serious physical abuse, and domestic violence convictions must also be closely examined by the caseworker to determine if there will be a risk to the child if returned home or placed with a relative. See Adverse Actions below for restrictions on placement due to criminal convictions. These types of convictions may be a clue as to the dynamics within the family that could place a child at risk from the parent or household member's behavior.

ADVERSE ACTIONS

Unless ordered by the court, children may not be placed within the home of a parent or relative if any adult household member or non-parent adult has a felony conviction for one of the following crimes:

- Child abuse/neglect.
- Spousal abuse.
- A crime against children.
- A crime involving violence, rape, sexual assault, or homicide but not including other physical assaults or battery.

Information must be assessed to determine if safety measures need to be addressed if the results of the criminal record reveal that a member of the household has a felony conviction within the last five years for any of the following:

- Physical assault.
- Battery.
- A drug-related felony.

REBUTTAL PROCESS

If a person challenges the accuracy of a criminal record check, the DHS staff must refer the person to his/her nearest local law enforcement agency and follow that law enforcement agency's process for challenging a criminal record. The individual must be directed that once the response to his/her challenge is received, they must then provide that information to DHS.

**LEIN DOCUMENT
DESTRUCTION**

LEIN documents and terminals must be safeguarded at all times. LEIN documents must not be filed in the juvenile justice case record or in non-secure storage. Electronic versions of LEIN documents, including saved computer files, must be deleted as soon as they are no longer required or the case is closed. LEIN documents must be shredded using a crosscut shredder. As staff from commercial document shredding services lack LEIN access, the use of such services, including common work-area destruction bins, for LEIN documents is prohibited.

**DISCLOSURE OF
LEIN INFORMATION**

Due to confidentiality issues, LEIN information and/or documents must never be shared by telephone, fax or electronic mail.

For court orders and subpoenas, do not process. Forward the court order to the Michigan State Police LEIN Field Services for processing.

The LEIN statute granting DHS enhanced LEIN access (MCL 28.211 et seq.) states that DHS "...shall not disclose information from the Law Enforcement Information Network to an unauthorized entity for any purpose..." The following categories of people, although not an exhaustive list, may not be given access to LEIN information either directly or indirectly by DHS:

- The subject of a LEIN check.
- Placement agency foster care providers.
- Contractors.
- Individuals, agencies and entities external to DHS.
- Unauthorized DHS staff or authorized staff for unauthorized purposes.

LEIN information is not subject to Freedom of Information Act requests.

The law also specifies criminal penalties for non-compliance with the confidentiality provisions of the law.

**PENALTY FOR
IMPROPER
RELEASE OF LEIN
INFORMATION**

MCL 28.214(5) prohibits the disclosure of LEIN information to any unauthorized entity for any reason. The first offense is a misdemeanor punishable by 93 days imprisonment or \$500 fine, or both. The second offense is a felony punishable by not more than four years imprisonment or \$2,000 fine, or both.

Staff found to have misused LEIN information are subject to disciplinary action up to and including dismissal as well as criminal prosecution.

All suspected violations of LEIN policy pertaining to unauthorized access, use or disclosure of LEIN information must be immediately reported to the DHS Office of Inspector General and the local office LEIN Terminal Agency Coordinator.

**DOCUMENTATION
OF VERIFIED
INFORMATION**

Verified information consists of information verified by credible sources with no reference to LEIN. Only verified information may be incorporated into the narrative of service plans, home studies/evaluations, safety plans, court reports, and petitions when this information is required by the Juvenile Code or the information is the basis for case decision making. LEIN documents may not be attached to, submitted with, or referenced in any way in documentation that contains verified information or discussion of the information.

The following are credible sources for verified information that can be quoted:

- Police/law enforcement.
- Court records.
- Prosecuting attorney's office.
- Internet Criminal History Access Tool.
- Offender Tracking Information System.

- National Sex Offender Registry (<http://www.nsopw.gov>).
- Michigan Public Sex Offender Registry (<http://www.mipsor.state.mi.us>).
- Secretary of State.

Reports, service plans, petitions, and home studies/evaluations must not quote from the LEIN report or specify unverified LEIN information. The acronym LEIN and the term Law Enforcement Information Network must not be used in any report, plan, petition, or home study/evaluation. Additionally, workers must never disclose that LEIN has been accessed to obtain criminal history or disclose any unverified criminal history information to the subject of the LEIN check.

TRACKER METHODS (AUDIT)

As a requirement of the agreement with the Michigan State Police granting DHS LEIN terminals, county offices must document all LEIN clearances by completing the DHS-268, LEIN Clearance Log. These forms must be completed as part of the audit process and must be maintained on file at the local office. The DHS-268 LEIN Clearance Log must be maintained in a secure area for one year from the date of the last entry.

Juvenile justice staff must use the DHS case number as the permanent tracking number for all LEIN clearances conducted in reference to that juvenile justice case.

SECONDARY DISSEMINATION

Secondary dissemination of criminal history information obtained from LEIN/National Crime Information Center (NCIC) is a limited practice that occurs when the LEIN information is distributed beyond the original requesting agency.

Example: If necessary and appropriately authorized, the LEIN user in a county office may transfer LEIN information for a specific case to the county prosecuting attorney using secondary dissemination.

This practice is expected to be fairly rare, limited in scope, and must be documented. Prohibitions against the use of telephone, email and fax remain in place.

Secondary dissemination of LEIN information is allowed on a limited basis only if:

- The person who is to receive the information is an authorized LEIN recipient who has an Originating Agency Identifier number.
- Records of the dissemination must be documented in a written log that must be retained for one year and that contains:
 - The date of dissemination.
 - The name of the person providing the information and his/her organization.
 - The name of the person receiving the information and his/her organization.

At no time may an unauthorized party be given, allowed to view, hear, record, copy, or otherwise access information obtained from LEIN/NCIC.

TRAINING

Employees with LEIN access must receive security awareness training within six months of their appointment or assignment to LEIN-related duties.

Any employee with LEIN access must receive security awareness training at least every 24 months.

Documentation related to the access and training received must be maintained in a current status by the local office Terminal Agency Coordinator.

LEGAL BASE

CJIS Policy Council Act, 1974 PA 163, as amended, MCL 28.211 et seq.

Michigan Governor Executive Order No. 1990-10.

Social Welfare Act, 1939 PA 280, as amended, MCL 400.10c.
